**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.15271 OF 2007**

**ORAL ORDER:**

This writ petition is filed seeking a declaration that the order passed by the 1st respondent dated 25.4.2007, confirming the order of the 2nd respondent in M.A.No.957 of 2006 dated 9.5.2006 as arbitrary and illegal.

The petitioner claims to be in possession of Ac.1.35 cents and Ac.1.65 cents of dry land situated in R.S.No.9/2 of Ryali village belonging to the 3rd respondent-Temple. It is stated that the petitioner's father by name Naganna was initially granted lease by the 3rd respondent-Temple and, on his death about 15 years ago, the petitioner has been continuing in possession and enjoyment of the same. It is also stated that the petitioner made an application requesting the 3rd respondent-Temple to continue him as tenant, and the same was accepted by the 3rd respondent-Temple. Pursuant thereto, the petitioner has been paying the maktha regularly and cultivating the land in question.

However, when the petitioner made a petition before the 2nd respondent seeking a declaration that he is a land less poor person, and, thus, entitled to the benefit of Section 82(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short "the Act"), the 2nd respondent by order dated 9.5.2006 rejected his claim. Aggrieved by the said order, the petitioner preferred an Appeal before the 1st respondent, which was also dismissed on an erroneous appreciation of the material on record. Hence, this writ petition.

It is alleged by the petitioner that taking advantage of the order of the 1st respondent, dismissing the Appeal, the 3rd respondent-Temple proposed to conduct a public auction on 19.7.2007 for grant of leasehold rights in respect of the land in his occupation. It is

contended that the said action of the 3rd respondent without recovering the possession of the land from the petitioner following due process of law, is arbitrary and illegal.

I have heard the learned counsel for the petitioner and perused the material on record.

Admittedly, the petitioner was never granted any lease by the 3rd respondent-Temple, but his deceased father was the cultivating tenant. Thus, there is no valid lease in favour of the petitioner at any point of time. The 1st respondent in his order dated 25.4.2007 recorded a finding that even the lease in favour of petitioner's father expired long back and, subsequently, he continued in possession of the land in question unauthorisedly from 1988-89 to 1997-98 till he died on 4.7.1998. Nothing has been placed before this Court to show that the said finding of fact recorded by the 1st respondent is erroneous or factually incorrect. In the circumstances, I do not find any justifiable ground to interfere with the conclusion of the respondents 1 and 2 that the petitioner is not entitled to the benefit under Section 82 of the Act.

Even assuming that the petitioner is continuing in possession as on today, his status being a mere encroacher, it is always open to the respondents to recover possession under Section 84 of the Act by taking police assistance, if necessary. Hence, the mere fact that he is in possession as on today, does not disentitle the 3rd respondent-Temple to conduct auction for grant of fresh leasehold rights. The writ petition is misconceived and the same is accordingly, dismissed. No costs.

However, this shall not preclude the petitioner to participate in the auction, if so advised. No costs.

**(G. ROHINI, J.)**

18th July, 2007.

Kgr

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.15271 OF 2007**

18th July, 2007.

Between:

Puvvula Mohana Rao. ..Petitioner.

And

The Regional Joint Commissioner,
Multi Zone-I, Endowments Department,
Kakinada, District Godavari District
and others. .. Respondents.